

HB

440

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 3, 1992
 Date of Committee Action: 3-2-92

FURTHER REFERRALS:

Finance

The JUDICIARY Committee considered:

HB 440

HOUSE BILL NO. 440

SEX OFFENDER REGISTRATION

"An Act relating to registration and community notification of sex offenders and amending Alaska Rule of Criminal Procedure 32(b)."

RECOMMENDATIONS:

be replaced with CS HB 440 (JUD) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact Law

fiscal note(s) _____

zero fiscal note Corrections, Admin x 2,

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>David D. Donley</i>	X				
<i>Kevin Pad Pines</i>	✓				
<i>Mike Miller</i>	✓				
<i>Larry Martin</i>	✓				
<i>Mark Stanley</i>	X				
<i>M. J. Puchberg</i>	-				

David D. Donley

 CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. H.B. 440

Revision Date: _____ Department Affected: Department of Corrections
 Title: "An Act relating to registra- BRU: Statewide Operations
tion...of sex offenders..." Component: Various
 Sponsor: Rep. Ulmer
 Requestor: House Judiciary COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
FUND SOURCE:						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached fiscal analysis.

Prepared By: *Diane Schenker* Diane Schenker, Legislative Liaison Phone: 465-3376
 Division: Office of the Commissioner Date: 02/24/92
 Approved by Commissioner: *Lloyd Hames* Lloyd Hames, Commissioner
 Agency: Department of Corrections Date: 02/24/92

CONTINUATION OF FISCAL ANALYSIS

BILL: HB 440 "An Act relating to registration and community notification of sex offenders and amending Alaska Rule of Criminal Procedure 32(b)."

The bill requires the Department of Corrections to provide notification of a sex offender's release, parole, community placement, work release placement, furlough, or escape to the police in the community in which the offender will reside and to the Alaska State Trooper post nearest to where the offender will reside. The notice must be given at least 10 days prior to release. In the case of escape, notice must be given immediately.

The bill also requires the Department of Corrections to provide written notification to sex offenders of the registration requirements at the time of release from confinement, including receipt and retention of a signed acknowledgement. The Department would also be required to give written notice of the registration requirements to a sex offender placed under the Department's authority through the Interstate Corrections Compact.

Projected release dates of sex offenders currently incarcerated are as follows:

<u>Time Period</u>	<u>Number of Sex Offenders Released</u>
01/01/92 - 12/31/92	52
" 93 - " 93	100
" 94 - " 94	50
" 95 - " 95	54
" 96 - " 96	37

The number of sex offender cases under the Interstate Compact are as follows:

01/01/90 - 12/31/90	38
" 91 - " 91	27

Based on an average of the above-listed cases, approximately 51 sex offenders would require notification per year, or slightly over four per month. This duty can be absorbed without additional staff, since various paperwork must be completed at the time of release for each offender anyway. These sections will require revision of Department Policies and Procedures. This task can be absorbed by the staff who are currently assigned to revise such policies on an on-going basis. Therefor, no fiscal impact is expected due to these requirements.

HB 440 CONTINUATION OF FISCAL ANALYSIS

The bill would also make it a Class B Misdemeanor for a sex offender to knowingly fail to register as required. Information regarding a similar sex offender registration requirement in Washington state suggests that about 76% of the sex offenders comply with the registration requirement. Assuming that approximately 50 sex offenders are released and required to register each year, a 24% failure rate would make 12 offenders eligible for a Class B misdemeanor each year.

In 1983 the Alaska Judicial Council studied a sample of 1795 misdemeanant cases to determine sentencing patterns. Approximately 29% were sentenced to some incarceration, other than concurrent sentences involving other charges. This would suggest that only 30% of 12 offenders would be likely to be sentenced to incarceration for this offense, or less than four offenders per year. Information on the length of sentence is not available. It is assumed that four misdemeanants per year requiring some period of incarceration would not have significant fiscal impact on the Department and could probably be absorbed through the use of existing community residential center beds.

However, since this bill would criminalize a behavior which is currently not illegal in Alaska, it must be recognized that the above estimates are speculative. Should the noncompliance rates be greater in Alaska, or should sentencing for these Class B misdemeanors result in frequent or lengthy (up to one year) incarcerations, one long term effect of this bill may be to accelerate the pace at which the Department of Corrections moves toward the need to expand prison space through construction of new facilities, with associated increases in operating costs.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HB 440

Revision Date: _____

Department Affected: Administration

Title: An Act relating to registration and community notification of sex offenders and amending Alaska Rule of Criminal Procedure 32(b).

BRU: Office of Public Advocacy

Sponsor: Ulmer

Component: Office of Public Advocacy

Requestor: House Judiciary

COMPONENT SERIAL NO.

		4	3
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Brant McGee, Public Advocate
Division: Office of Public Advocacy

Phone: 274-1684
Date: February 10, 1992

Approved by Commissioner: Nancy Bear Usual
Agency: Administration

Date: 2/21/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HB 440

Revision Date: _____
Title: Sex Offender Registration
Sponsor: Ulmer
Requestor: House Judiciary

Department Affected: Administration
BRU: Public Defender
Component: Public Defender

COMPONENT SERIAL NO.

1	6	3	1
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Kevin Brooks
Division: Administrative Services

Phone: 465-2277
Date: February 21, 1992

Approved by Commissioner: Nancy Bear Usera
Agency: Administration

Date: 2/21/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSHB 440 (IUD)

Revision Date: February 28, 1992
Title: "...registration by and community notification of sex offenders..."
Sponsor: Representative Ulmer
Requestor: House Judiciary Committee

Department Affected: Department of Law
BRU: Prosecution, Legal Services
Component: Prosecution - All Legal Services - Operations
COMPONENT SERIAL

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Expenditures/Revenues: (Thousands of Dollars)

85 through 91, 93

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Date: February 28, 1992
Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law Date: February 28, 1992

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 440 (JUD) 2/21/92 WORK DRAFT

The Judiciary Committee work draft substitute for HB 440, dated February 21, 1992, eliminates the primary concern expressed in the Department of Law's February 24 fiscal note, because it does away with the requirement that sex offenders petition the court to be relieved of the duty to register. The substitute version of the bill sets term-certain periods that a sex offender must be registered, instead. In the case of a sex offender's unconditional discharge for a conviction of a sex offense for an unclassified, class A or class B felony, the period would be 10 years. The registration period for a person convicted of a lesser sex offense would be 5 years, after a sex offender's unconditional discharge. This change eliminates the requirement for district attorneys to serve as respondents for petitions to terminate registration, as this process would no longer be required. Consequently, there will not be a fiscal impact for the Department of Law.

Alaska State Legislature

HOUSE OF REPRESENTATIVES



REPRESENTATIVE FRAN ULMER

MEMORANDUM

February 22, 1992

To: All Members, House Judiciary Committee

From: Representative Fran Ulmer

Subject: HB 440, "An Act relating to registration by and community notification of sex offenders and amending Alaska Rules of Criminal Procedure 11(c) and 32(b)."

This memorandum and attachments are to provide you with information about HB 440, which requires that convicted sex offenders register with the Alaska State Trooper post nearest their place of residence and authorizes the release of that information to agencies and to the public upon request. This bill will enhance protection of the public by making the identities of known, convicted sex offenders accessible, as well as assisting law enforcement in tracking sex offenders as they move from community to community.

We should be alarmed by the rates of sexual assault and child sexual abuse in our state. Alaska leads the nation in the rate of child sexual abuse and is the second highest in sexual assault! And the rates show no signs of abating. We must act in every way that we can to stop the epidemic, to provide our citizens, our children, with better protection.

This bill is simple and straight forward. It makes information available to prospective employers, volunteer coordinators and other persons who are concerned about screening people who may be inappropriate for work with children or other vulnerable individuals. Although technically that information is already publicly available, as a practical matter it is extremely difficult to obtain. This bill will allow parents seeking child care to learn the identities of the known sex offenders in the area, and the owner of the local day care center to screen out known sex offenders from employment. It will enable Scouting officials and Little League directors to evaluate individuals who volunteer to work with children. Hopefully, as a result we will see less sexual abuse in Alaska.

I have received support on this bill from people across the state, many victims or parents of victims themselves. There is support from the Alaska Peace Officers Association, the Anchorage Police Department's Crimes Against Children Unit, victims rights groups and day care operators. I assure you, your support of this bill will be greatly appreciated.

PUBLIC OPINION MESSAGE

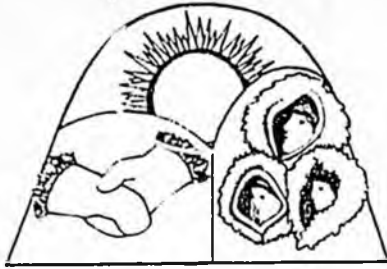
DEAR: REPRESENTATIVE ULMER

NAME: DEBORAH BLOOM
TITLE:
ADDRESS: BOX 231273
CITY: ANCHORAGE ZIP: 99523
PHONE: 344-9638
BILL NO: HB 440
SUBJECT: SEX OFFENDER REGISTRATION
MESSAGE: AS A SEXUAL ASSAULT VICTIM, I BEG YOU PLEASE PASS THIS BILL. /JSM

POMID: 03110311
DATE: 92/02/05
TIME: 11:03:11
LIONAME: ANCHORAGE LIO

COPIES: REPRESENTATIVES REPRESENTATIVES SENATORS

BAKER	BARNES	ADAMS
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FINKELSTEIN	FOSTER	FISCHER
GONZALES	GRUENBERG	FRANK
GRUSSENDORF	HANLEY	HALFORD
HUDSON	IVAN	HOFFMAN
JACKO	KOFONEN	JONES
KUBINA	LARSON	KERTTULA
LEMAN	LINCOLN	MENARD
MACKIE	MACLEAN	PEARCE
MARTIN	M.A.MILLER	POURCHOT
M.W.MILLER	MOYER	RODEY
NAVARRÉ	PARNELL	SHULTZ
G.PHILLIPS	R.PHILLIPS	STURGULEWSKI
SHARP	TAYLOR	UEHLING
ZAHACKI		ZHAROFF



Bering Sea Women's Group

February 18, 1992

Representative Fran Ulmer
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Fran,

Thank you for introducing HB 440 to the Alaska State Legislature! As a professional who has worked for many years with victims of sexual assault, both children and adults, I applaud your efforts to reduce the risk to Alaskans. You are certainly correct about behavior patterns of sex offenders and we all know that many people come to Alaska to escape constraints imposed on them in the Lower 48 states, making Alaska a place where offenders may feel free to migrate. Not only does this bill offer us all some extra protection, it also makes a statement that we will not tolerate the abuse of our people.

As Executive Director of the Bering Sea Women's Group, as a Social Worker and as a private citizen, you have my full support for the passage of this piece of legislation.

If I can be of any assistance, please do not hesitate to contact me.

Sincerely,

Candace L. Brower.

Candace L. Brower, LCSW
Executive Director

February 8, 1992

Representative Fran Ulmer
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

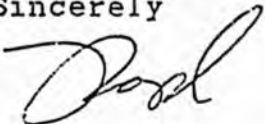
Dear Fran

I am writing in support of H.B. 440. Research tells us that sexual offenders repeat their behavior, victimizing others wherever they go. We also know that curing them is impossible and all we can do is monitor their behavior which reduces the risk of repeat acts.

This bill would help us get one step closer to monitoring or forcing these individuals to allow us to monitor their behavior and whereabouts.

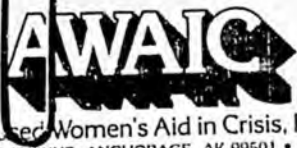
Please pass this legislation on behalf of potential victims, many of whom cannot protect themselves at all.

Sincerely



Floyd H. Richmond
P. O. Box 5438
Ketchikan, Alaska 99901

cc: Representative Cheri Davis
Representative Robin Taylor
Senator Lloyd Jones



Abused Women's Aid in Crisis, Inc.
100 W. 13TH AVENUE, ANCHORAGE, AK 99501 • (907) 279-9581

Shelter and counseling
services for women and children

Heather Flynn
Executive Director

Counseling services
for men



Abused Women's Aid in Crisis, Inc.

100 W. 13TH AVENUE • ANCHORAGE, AK 99501 • (907) 279-9581

24 February, 1992

Representative Fran Ulmer
Pouch V
Juneau, AK 99822

Dear Fran,

AWAIC would like to lend its support to your efforts to provide protection from sex offenders (HB 440).

It has come to our attention that more than 200 sex offenders will be released from jail in the next few years. While there is a sex offender program available to prisoners, there is no clear evidence as to its effectiveness and, further, because it is voluntary, there is no guarantee that offenders will have attended the program. The public, particularly potential victims, have little protection from sex offenders.

It is our experience that many victims of domestic violence, both adult women and children, are abused by men who have been sexually abused as children and grow up to take out their anger on women and children.

Further, like most non-profits, we rely heavily on volunteers. We need an easily accessible, inexpensive method of identifying persons who are clearly not acceptable volunteers.

Thank you for your efforts on HB 440, and your commitment to AWAIC.

Sincerely,

A handwritten signature in cursive script that reads "Heather".



A United Way Agency

895 West 12th Street, Apt. 420
Juneau, AK 99801-1572

February 10, 1992

Honorable Fran Ulmer
Alaska State Legislature
State Capitol, Room 421
Juneau, AK 99811

Dear Fran:

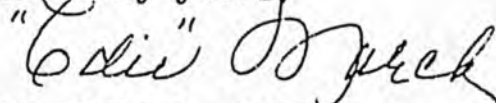
Enclosed are two copies of the article I mentioned to you on the telephone this evening.

As I mentioned, when this article came out I contacted the offices of the chairpersons and co-chairpersons of the Judiciary and Health, Education and Social Services committees of both Houses.

I was pleased to learn that all said they would be interested in the article and wanted to know how to obtain copies. I do know that Senator Sturgulewski received hers when I received mine.

You will be appalled at what you read and I sincerely hope that legislation will be forthcoming regarding incest and child molestation. TOUGH AND SEVERE LEGISLATION!!

Sincerely yours,

A handwritten signature in cursive script that reads "Edna C. March". The signature is written in dark ink and is positioned above the typed name.

MRS. EDNA C. MARCH

Enclosures 2

February 13, 1992

House Finance & Judiciary Committees
Alaska State Legislature
P.O. box V (MS3100)
Juneau, Alaska 99811

Re: Registration For Sex Offenders

Dear Representatives:

You are being asked to once again consider a bill that will require convicted sex offenders to register with law enforcement authorities. I say, once again, because this bill has been previously considered by the Legislature and the last time it was before you the House Counsel reported that it would, in all probability, be a violation of the Alaska Constitution's explicit guarantee of the right to privacy. House Counsel also found that there may be other violations subjecting the Bill to Constitutional Challenge.

You must remember that all persons convicted of a crime, when released from supervision, have their civil rights restored. Since there is a potential, in fact a likelihood, of a violation of fundamental rights guaranteed by the Alaska Constitution, passage of this Bill must not be equated with the recent Bill in Washington State. The Washington State Constitution does not have an explicit guarantee of a right to privacy, as does Alaska's. Also since fundamental rights are at issue, you must first consider whether there is a less restrictive alternative to accomplish your goal intended by this legislation. And, there is a less restrictive alternative. This less restrictive alternative will limit the infringement of rights and reduce the fiscal impact of the Bill.

Hopefully, your asserted goal is to eliminate sex offenders from certain occupations. If your goal is to simply keep tabs on these offenders and to keep them under supervision then the Bill is punitive in nature and gives rise to an attack as being cruel and unusual punishment and in violation of the prohibition on ex post facto laws. Since the valid goal is occupational and regulatory, you can accomplish the same goals by requiring employers, in certain job fields, to ask this question on an employment application. Make it a Class A misdemeanor or Class C felony for an applicant to lie on this application. This can be accomplished by amendments to Title 23, Labor.

House Finance & Judiciary Committee

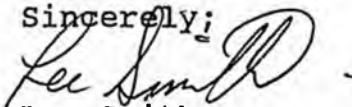
February 13, 1992

Next, require these employers to provide the Social Security Number and Name of the Applicant to Public Safety who will be required to run the name through NCIC, the Crime Information System. This will catch the applicants who lie on the application and protect those employers. The Alaska Supreme Court would more likely than not uphold such a provision, even in light of its potential infringement of fundamental rights, because it would be protecting an important governmental interest. Requiring all offenders to register, however, may be subject to attack, because there are clearly less restrictive alternatives available. When less restrictive alternatives are available to accomplish the goal intended, the infringement will not stand up against constitutional attack. Especially where fundamental rights are at stake.

If you require registration of all offenders, the fiscal impact will be considerable. While the fiscal impact of only screening applicants for certain professions will reduce the amount required to administer the Law. Passage of the Bill, as it now stands, will also cause a fiscal impact in the money spent to defend against the many law suits that will be filed and the appeals thereof. The State will be required to defend against these suits and even if the plaintiffs don't prevail, the State will not be able to recover their attorneys' fees. Attorneys' fees are not available in Civil Rights Cases unless the case is deemed to be frivolous by the Courts.

This is an election year and surely you wish to show the voters that you are tough on crime. Passing legislation that is likely to be overturned on constitutional grounds, however, is not the manner in which to appease your voters. The voters are also looking to you to be fiscally responsible during this and future sessions. Show the voters that you're both tough on crime and fiscally responsible. House counsel pointed out the last time you considered this Bill that it would probably be subject to constitutional attack. Nothing has changed from that time -- the constitution remains the same. Either amend or vote down the Bill requiring registration of all persons convicted of sexual offenses.

Sincerely;



Lee Smith
733 W. 4th Avenue, Suite 401
Anchorage, Alaska 99501

Schleuss & McComas

ATTORNEYS AT LAW

600 L STREET, SUITE 300

ANCHORAGE, ALASKA 99501

(907) 258-7807

FAX (907) 278-1158

February 28, 1992

Representative Dave Donley, Chairman
House Judiciary Committee

RE: CS For House Bill No. 440
House Bill No. 156

Dear Representative Donley:

I am informed that House Bill No. 440 is scheduled for a hearing in front of the House Judiciary Committee this afternoon, Friday, February 28, 1992, at 1:30 p.m. The Alaska Action Trust is preparing a Position Paper on the Committee Substitute for HB 440. Would it be possible for the Committee to schedule another hearing on HB 440 for sometime next week after the Trust has had an opportunity to fully review the Bill and prepare its Position Paper? Any consideration you can give to my request for a Committee hearing next week would be much appreciated.

Being sent with this letter is a copy of the Trust's Position Paper regarding HB 156. As you can see from the Position Paper, the Trust agrees that it is appropriate to extend the physician/psychotherapist-patient privilege to include violence counselors. However, because this Bill has no exception for criminal prosecutions after an in camera review and findings that communications are relevant to material issues in the case, we believe that to the extent it applies to criminal cases, the Bill as written is unconstitutional. The Position Paper suggests additional language to be included with the Bill so that it would then be constitutional in the criminal context.

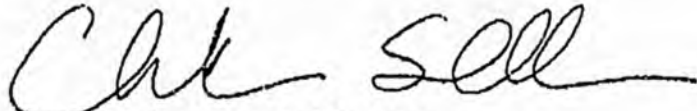
Rep. Dave Donley
RE: HB 440/HB 156
February 28, 1992
Page 2

I am faxing this Position Paper to Laurie Otto in your Anchorage office. I appreciate the consideration of the House Judiciary Committee to the position of the Trust on HB 156. Unfortunately, neither I nor another member of the Trust Criminal Committee is available to testify on HB 156 this afternoon. I would much appreciate it if the Committee could consider rescheduling this Bill for hearing next week.

Thank you for your attention to the matters set forth in this fax. I'd be more than happy to discuss the Trust's position on these two Bills and to work on proposed substitute language with anyone.

Sincerely yours,

LAW OFFICES OF SCHLEUSS & MCCOMAS



Christine S. Schleuss

CSS:2795\ja
Attachment

Transcription
of
Testimony on House Bill 465
by
DR. ROB FREEMAN LONGO

House Judiciary Meeting
March 30, 1990

CHAIRMAN PETER GOLL (GOLL): Do you have prepared remarks or would you like Representative Koponen to provide some framework for your remarks? If you have prepared thoughts that you'd care to share with us the floor is your, and if you'd rather kind of respond to particular concerns, then I'm sure Mr. Koponen could voice those for you.

DR. ROB FREEMAN LONGO (LONGO): I don't have any prepared remarks on this.

GOLL: Niilo would you care to frame the discussion a little bit for Mr. Longo?

REPRESENTATIVE NIILLO KOPONEN (KOPONEN): Well, we're concerned about the growth of our prison population, the impact of (indiscernible) procedure, and also, the question of treatment of offenders for rehabilitation before release, or the followup after release, that they do not reoffend. Currently, we are paying for the possibility of the release of a number of prisoners within the next year unless we deal with the problem of overcrowding. We have a constitutional mandate for rehabilitation for protection of the public, not for revenge but there are different driving points (indiscernible).

GOLL: Mr. Longo, I'd add to that, if I could, that we have presumptive sentencing in this state that deals with sexual offenses. We know you have a great deal of expertise in treatment in that area. There's a constant question before this committee as to whether or not treatment programs are effective, and some are and some are not, and you can give us some specific guides in identifying which are which. Basically part of the question before us is, is there a way that we can responsibly deal with such offenders to avoid recidivism other than just keeping them incarcerated forever, and your thoughts will be very valuable to the committee.

LONGO: Sure. Well, I assume that the committee has a sense of what I'm presently doing, but if you don't I will tell you what I am doing with the State. I am on contract with the Department of Corrections, helping them put together their systemized approach to treating sexual offenders, specifically my primary area of expertise, and let me first begin by saying that I think Alaska's move to a position now to what they are currently doing, to be a state that will be a model state in programming. As a matter of fact, the state that I am from, Oregon, I recently left that program because of some real dysfunctional things going on, and I think a giant step backwards, and I'm turning to look in your direction. So, I think it's, you can be very pleased with what it is that is going on here. I think what we're faced with,

and your state here, is no different than what we're faced with in the other 48 contiguous states down below, and in Hawaii as well, which is also, as you might know, in the process of developing sex offender programming, and that is that there's, as you establish more victim agencies and stiffer penalties for sexual offenders, once you get increased reporting, and you want get even more people going to prison for that sort of behavior, and so that's what's uniform. And a lot of states that have had less severe penalties for sexually abusing behaviors have been turning more and more towards stricter all kinds of penalties with greater consequences for such behavior. Oregon, for instance, has recently moved to making more serious these types of crimes, and therefore, you'll be seeing more and more people going to prison for these kinds of crimes.

What will tend to happen, generally speaking, is that you're going to have this increase in reporting, and we're going to have the public's attention, and they're not going to want these people running around on the streets. What we can tell you about this type of offender is that they are typically, number one, dangerous left untreated; the chances of recidivism, left untreated, are about 80%. You look at some different studies, but the figure that keeps coming back is seventy-eighty percent recidivism among non-treated sexual offenders. And they have a very, very high rate of recidi-

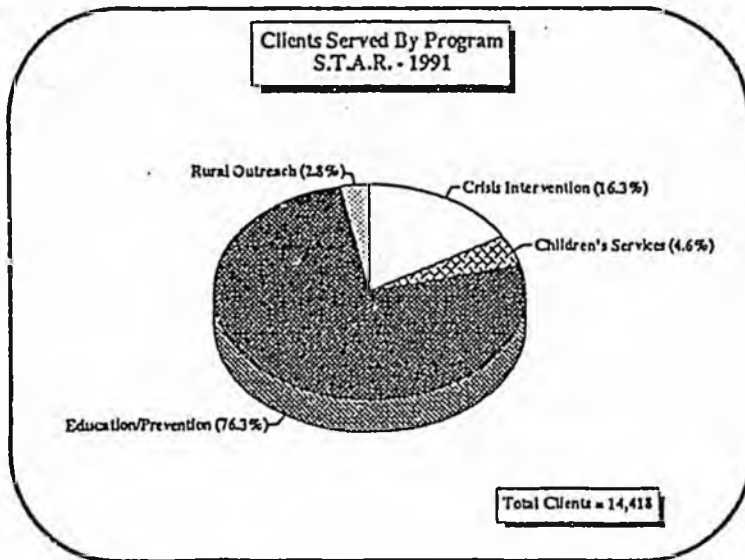
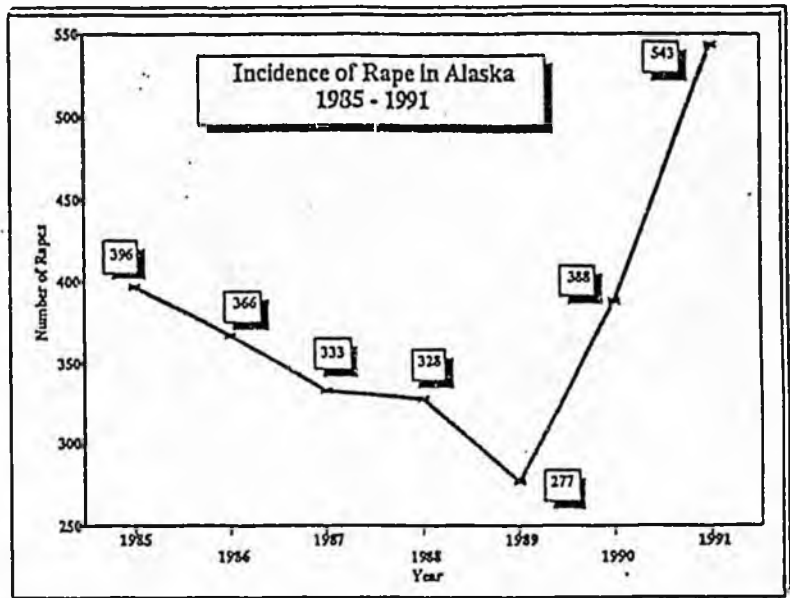
vism. I have done a study based on a study that was done by Jean Able several years ago, and we can tell you that the average, you know, rapist is going to have ten or fifteen victims. The average child molester is going to have somewhere around 20-30 victims greater, and that incarceration, in and of itself, is not going to alter the problem. Incarceration for sex offenders basically keeps them safe, and off the streets, and therefore, keeps the potential victim safe. So, I'm certainly an advocate for intervention and treatment. I have recommended to the Department of Corrections and they have pursued this, that we begin up here using what's known as the ^{Relapse} relaxed prevention model. The reason I've recommended that model is a) it's the only model that has any research coming out of it as a particular model of treatment; b) it's the only model that has that data coming out of it that's based on a state level including state funded research out of two states; and c) because I think it's the only way to go from all the approaches I have seen; and 4) it becomes, it can be systemized. It can be used at the beginning of treatment on a lay-down group, their release and subsequently being supervised in the community. So, what, you know, we are doing right now I think is basically state-of-the-art treatment and preparation for programming, and I certainly have no concerns about (indiscernible) either. You mentioned presumptive parole dates, and I can't say I'm necessarily in favor of presump-

tive parole dates. I think the problem that we all face with overcrowding is what do we do when prisons get overcrowded? Who do we cut loose, and under what conditions? Would I recommend that we move towards community treatment of these offenders in lieu of prison treatment? I would think not. I think that most people really need to be incarcerated initially, and will benefit much more so from intensive in-patient treatment. The average clinician when treating a client on the outside, sex offender or otherwise, probably thinks one may be two hours a week, and in the course of the year that's about a hundred hours, allotting for two weeks of vacation time. Okay? In an in-patient program, you're looking at a program that's going to take place at least four hours of that day, probably five, maybe six, seven hours of program and group therapy education, one to one. Let's take the average, the number five. That 25 hours a week, that is basically 1250 hours of treatment in one year. You'd have to have to have ten years of out-patient treatment to be equivocal to a year of in-patient treatment. Okay? I don't know any really significant studies that have shown that there's a benefit to, you know, out-patient treatment per se over in-patient treatment, and the study that shows recidivism that I've seen that are good studies are from in-patient programs, so you know, there is that information. I don't want to get long winded on you, but we can carry on from here with other questions.

1991 Brought a Dramatic Increase in the Need and Demand for Sexual Assault/Abuse Services

Sexual Assault

- ★ In 1990, Alaska experienced a 40% increase in sexual assaults.
- ★ In Anchorage, the rate at which women, children and men were raped increased by 57% between January, 1990 and July, 1991
- ★ The consequent demand for counseling, accompaniments, education/prevention, and advocacy services at S.T.A.R. increased by 189% between July and October, 1991.
- ★ Alaska's sexual assault rate is the second highest in the nation, with a woman, child or man being sexually assaulted every 21 hours.



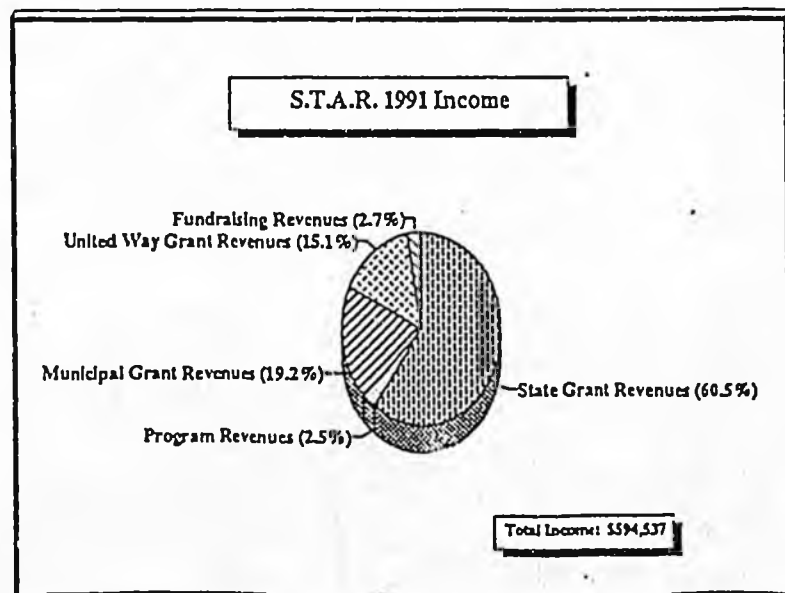
Child Sexual Abuse:

- ★ Alaska leads the nation in the rate of child sexual abuse - the rate of abuse in our state is 6 times the national average.
- ★ In 1990, 1305 children were sexually abused in Alaska.
- ★ In the first quarter of 1991, the Department of Family and Youth Services reported 160 incidents of child sexual abuse in Anchorage. This represents a 20% increase over the same period in 1990.
- ★ One (1) out of every 6 children in Anchorage is sexually abused.

- ★ For the first time in S.T.A.R.'s history, there are waiting lists for up to six (6) weeks for adult and child clients to be seen by staff counselors.
- ★ S.T.A.R. is recognized throughout Alaska as the primary sexual assault agency. S.T.A.R. educators train professionals and para-professionals in Anchorage and throughout the state.

Reduction in Funding Support

- ★ The combined funding cuts received by S.T.A.R. in 1991 and 1992 totaled \$148,000. These cuts forced S.T.A.R. to eliminate 5 staff positions (two education/prevention staff and three client services/counseling staff) during a period of escalating need and demand for services.



Editorial

Fair warning

12/84

A recent sentence by Superior Court Judge Thomas Schulz should be fair warning to child abusers. Like rape, people are now more inclined to report cases of sexual abuse of children, prosecutors are more likely to take the cases to court and judges aren't afraid to impose strict sentencing. A Ketchikan man was recently sentenced by Schulz to 19 years in jail for sexual abuse of a minor. That term will be added to a five-year sentence the man is already serving for the same charge.

Nineteen years sounds like a stiff penalty, but in some cases it doesn't approach justice. In this case, the man had a prior conviction from Washington state. Despite that, his wife obtained a state license for a child care facility in Ketchikan — where the man abused an 8-year-old boy. While awaiting sentencing on that charge, he sexually abused still another child.

One could argue that justice has been served. The mother of the 8-year-old sued the state and collected about \$1.5 million for her claims that the state was negligent in not warning child care clients of the man's tendencies and for not revoking the child care license. And the man has now been sentenced on both charges.

But the sad part of the story is that a convicted abuser was able to go as far as he did. There were just enough cracks in the system to let him through. And there are still more cracks available, depending on probation.

But people's perceptions of child abuse are changing. Just a few years ago, rape victims were the ones who felt guilty of a crime. Now people are beginning to acknowledge that it's the perpetrator, not the victim, who deserves the scrutiny. As that perception changed, women became more likely to report rapes and pursue convictions.

The same thing is happening with child abuse. People, including family members, are more willing to admit that it's the children, not the adult perpetrator, who are the victims. In some cases, treatment for the offender may help solve the problem. In other cases, stiff sentencing is the only answer.

Public reporting on child abuse cases is another factor that can help stem its growth. If abusers know they face criminal prosecution, they should also know that their name will appear in public.

But more important than shaming the criminal, public information about child abuse can help people understand and come to terms with it. As each child abuse case is reported, it serves as an example to someone else who might be lying with it — and thinking they're alone with it.

Unfortunately, public scrutiny might also have the effect of as well. We're confident that will change. The first step is under

Ketchikan Daily News 12/84

February 4, 1992, All-Alaska Weekly.

Hearing set for molester

BETHEL—A public hearing before a state professional board is set for convicted child molester John Hawkins, Ph.D, who seeking his license to practice as a psychologist, according to *The Tundra Drums*.

The Board of Psychologist and Psychological Associate Examiners will hear the re-licensing case in Bethel February 17. The hearing was originally scheduled for last November in Anchorage.

Hawkins, 72, had his psychologist's license revoked following a 1984 conviction of sexually abusing a 13-year old girl. He spent two years in prison and underwent several years of court-ordered sex offender treatment.

Prior to his conviction, Hawkins was a clinical psychologist for the Yukon-Kuskokwim Health Corporation and the Lower Kuskokwim School District.

This is Hawkins' second attempt to get his license back. He was denied it by the board in 1989.

Hawkins' public statements about child-molestation have been controversial.

2/5/92 Daily News

Bill requires sex offenders to register

The Associated Press

JUNEAU — A bill that would require convicted sex offenders to register with the state is among the new bills introduced in the legislature this week.

The proposal would require convicted sex offenders to register with the Alaska State Troopers within 30 days of release from prison

or within 45 days of moving to Alaska.

Offenders who relocate within Alaska would be required to notify the nearest trooper station within 10 days.

"Sex crimes are an epidemic in Alaska," said Rep. Fran Ulmer, D-Juneau and prime sponsor of House Bill 440. "This bill is, in part, a

statement of frustration with the increasing amount of sexual violence against women and children.

"It's primarily prevention to make sure people aren't hired into a position where they have a lot of victims available to them."

The bill would make it easier for employers, such as day-care centers and nursing

homes, to find out if potential employees have sex-crime convictions, Ulmer said. The public would also have access to the information.

Ulmer, who serves on Alaska Sentencing Commission, said her bill is modeled after a more sweeping Washington law enacted in 1990.

THE

CHILD

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He's a man you trust.

He's a man your children trust.

He's a teacher, a coach,

a Cub Scout leader—someone

your family knows well. And

he's much more likely to sexually

abuse little boys than little

girls, according to a landmark

study of 403 sex offenders.

In this shocking report, the

doctor who headed the research

team offers a profile of the

typical child abuser—and tells

you how to protect your children

BY GENE G. ABEL, M.D.,
WITH NORA HARLOW

*Gene G. Abel, M.D., who has been a sex researcher for 20 years, is a professor of psychiatry at the Emory University School of Medicine and director of the Behavioral Medicine Unit. He is married to Nora Harlow, a frequent contributor to Redbook, who is the author of *Lover to Lover: Secrets of Sex Therapy* (G.P. Putnam's Sons, 1983).*

Maudeine Smith,⁹ a 33-year-old special education teacher, was shocked when her daughter, three-year-old Emily, described what the man who owned the day-care center she attended had done to her that day. Maudeine realized her little girl was describing an oral sex act. "I immediately checked with my seven-year-old son, Jake, who attended the same day-care center after school, to find out if he knew anything about what might have happened to his baby sister," says Maudeine. "I couldn't believe that this man, Michael Jones, had molested my daughter. He and his wife attended the adult Sunday School class I taught at our local Baptist church. They had been to our house for dinner. He seemed like such a nice man. How could he possibly have done anything as terrible as Emily had described?"

Still, Maudeine knew that a three-year-old could hardly make up a story like the one Emily had told. So Maudeine questioned her son. "At first Jake said, 'No.' Then he coughed. Then he hung his head and started crying. I said to him, 'I know this is awfully hard to talk about, but Mamma needs to know the truth.'" So her son told her the truth—that he had also been molested by this same man. "He told me how Michael Jones had made him put his mouth on Jones' penis, and how he threatened Jake by telling him he'd kill me if Jake ever told anyone. I was flabbergasted. I never once thought that my son could be molested. I only worried about my daughter. Then Jake told me that this had been going on for years! I didn't know I had so much adrenaline in my body. My heart started beating so hard that I felt I couldn't keep it in my chest.

"And then I became frightened for the other children at the center. I felt sure that there were other children involved who also had not told their parents."

Sheila Kane knew that her 11-year-old son, Derek, was seriously troubled. "He had tried to kill himself three times by taking a few of my nonprescription sleeping pills and by making some small cuts on his wrist—feeble attempts that couldn't have really killed him, but signals that something was terribly wrong. We had been in therapy with him for months trying to find the problem.

"Then one night Derek broke down and told his father that he had been molested by Jim Brown, the youth minister at our church. I stood at the top of the stairs in our house listening to them talking in the living

* NAMES HAVE BEEN CHANGED TO PROTECT PRIVACY.

room and was absolutely dumbfounded when I heard Derek say that both he and his nine-year-old brother, Sean, had been molested by this man. As Derek explained to his father how the youth minister had molested him orally and anally, I literally had to go and vomit. I just could not believe that this had happened to my children."

The mothers interviewed for this article were shocked to discover that their sons had been molested. Then they were shocked again when they found out that the men who had molested their sons were men they knew well, men they trusted. Each of these mothers thought that her son's victimization was a tragic, isolated occurrence and that incidents like these are unusual. But although these mothers lived in very different communities—one in a small town and the other in a prosperous suburb of a large city—they actually had very similar stories to tell.

As a psychiatrist who specializes in the study and treatment of pedophilia—a sexual perversion in which an adult prefers children as partners—I hear this kind of story, from mothers and molesters, again and again. I've just completed an eight-year national study on child molesters for the Antisocial and Violent Behavior Branch of the National Institute of Mental Health. The data I've collected from interviews with, and physiologic laboratory assessments of, 403 molesters is now being analyzed by the Department of Psychiatry at Emory University in Atlanta. This new information, collected with the help of five of my colleagues in four different cities, reveals that men who assault children have a surprisingly high number of victims. The 403 molesters we evaluated had molested more than 67,000 children.

But we were most surprised by the high number of boys who are victimized. When we looked at the total number of children who were molested—including those who were not touched but were the object of such offenses as indecent exposure and window peeping—we found what we expected to find: Little girls are molested most often. However, when we looked only at the more serious offenses—ones in which the child is touched—we found that 63 percent of the children who are sexually assaulted are little boys. And not only do molesters assault boys more often than they assault girls, but men who molest boys also have an astonishingly higher number of victims—an average of 282 victims compared to an average of 23 victims among men who assault girls.

ABUSER

How can you spot him?

The sheer number of molesters in this study makes it the largest study of its kind to be conducted anywhere in the world. But this research project is also unique because, like 90 percent of all child molesters, these men were not in prison—they were living freely in the community. Their participation was voluntary. Two hundred of them also volunteered to participate in a 34-week treatment program. The men were referred to us by physicians, parole officers, judges or social workers, or they entered the study after hearing about our free treatment program through radio and television announcements.

BUT WE TRUSTED HIM!

While we were surprised by the number of children that these men had molested, we were not surprised to find that these molesters, like those we had treated before, were very different from the kind of men parents teach children to avoid. Most of us think that a child molester is a rather slimy individual—a stranger in town, sitting in his car near a schoolyard, luring children with candy. Our findings reveal that, on the contrary, the child molester is not a stranger, but is someone we know well. He often is a man we trust, a man our children trust.

Many child molesters try to move themselves into positions or occupations within the community that will allow them to spend time alone with children without attracting much notice. Molesters often become youth ministers, day-care workers, Boy Scout leaders, teachers, Big Brothers and pediatricians.

We should *not* assume, however, that only youth ministers or day-care workers or teachers molest children. In fact, within any of these occupations, the number of men who molest children is exceedingly small. But these men do exist. As a physician and a psychiatrist who has spent most of my life working with child molesters, I wish I could say, for example, that no physician or psychiatrist has ever molested a child. And indeed, among physicians—as among youth ministers, day-care workers and teachers—there are exceedingly few men who are child molesters. But there are a few. Of the several hundred molesters I've treated in the last two years, one was a school physician, two were child psychiatrists, another was a pediatrician.

Given these facts—that our children are being molested by men we know and trust—what can we do to protect not only our own children, but *all* children, from suffering such a terrible experience?

First of all, we can learn about pedophilia—what it is, what kind of men become pedophiles and how they manage to manipulate our children into becoming their victims.

Men who are pedophiles desire sexual involvement with young children. They most often have other interests and abilities that are completely normal—often exemplary. Their abnormal sexual interest in young children appears to develop in isolation from any other antisocial behaviors.

A pedophile's sexual desire for young children leads him to behave toward a child in many of the same ways that adults behave sexually toward each other. Most adults will arrange their lives to meet members of the opposite sex and spend time with them. They will fantasize about a potential partner and feel sexually excited in that person's company. The child molester goes through the same process—only his object of desire is a child. The other big difference between normal adults and child molesters is that, whereas healthy adult sex is consensual, the molester manipulates and threatens the child into complying with his wishes.

What kind of man would do this to a child? Our study shows that he is most often Caucasian between the ages of 20 and 40. He typically has had more than one year of college and holds a full-time job. As a rule, he is married and has children of his own whom he usually does *not* molest. He is almost always a well-respected, even loved, member of his community. He is often an active Christian who is involved in his church. He never assaults children he does not know; he only chooses children with whom he can first build a trusting relationship.

ARE THESE MEN SICK?

How does a man become a child molester? Quite often his interest in children begins when he himself is a child and then emerges full-blown at age 16 or 17 when he actually starts abusing children. Essentially, he has some generalized erotic interest in other young children when he is *(continued)*



**SPECIAL
REPORT**

also young. Most children do. Kids like to 'play "doctor," for example, or take baths together so they can see each other's body. But as the molester gets older, he discovers that while others his age have stopped having any interest in young children, he has sustained his interest. It was once thought that a child molester was interested *only* in children and that if therapy could stimulate his sexual interest in an adult woman, such as his wife, his obsession with children would disappear. Now we know that, in most cases, the child molester has a normal sex life with his wife but still maintains his deviant sexual interest in children.

A few years ago many psychiatrists believed that boys who were molested as children very often became molesters as adults. And our study found that, indeed, 40 percent of the men who molest boys and 24 percent of the men who molest girls were molested themselves as children. However, most child molesters were *not* molested as children but developed this obsession anyway.

One factor that appears to be true of all men who become child molesters is that they pair sexual fantasies about children with masturbation. Freudian theory suggests that orgasm is a powerful reinforcer of any sexual interest, so that when a man masturbates while fantasizing about young children, this entrenches his obsessive desire.

We also found that child molesters commonly exhibit multiple sexual deviations. The fact that these men are often also exhibitionists, fetishists, rapists and, on occasion, incest offenders suggests that their deviations may evolve not from family or interpersonal conflicts, as was once believed, but from their general inability to suppress inappropriate sexual interests—interests that "healthy" adults *do* suppress.

It's often difficult to spot the man who might possibly molest our children because we expect a molester to be a man who displays many antisocial behaviors; and in the case of a molester whose victims are little boys, we expect him to be homosexual. But in our study, we found that most men who molest little boys are not gay. Only 21 percent of the child molesters we studied who assault little boys were exclusively homosexual. Nearly 80 percent of the men who molested little boys were heterosexual or bisexual, and most of these men were married and had children of their own.

Usually molesters are able to abuse many, many children without being caught. The only way they are caught is if a child tells someone what has happened. They are rarely caught in the act of molesting a child by suspicious parents. Even when parents do become suspicious, the molester is usually able to deflect that suspicion because he is often a respected member of the community. Many molesters have told me that the first thing they did when suspicions arose about them was to join the parents and take up the

cry that child molestation is a terrible thing and must be stopped. For example, John, a former professional athlete and baseball coach, said that he would fend off suspicious parents by agreeing with them. He'd say, "I do believe that your kid has been molested because he does seem to talk about sex more than he should. Now, I was hoping that if I got close to him, he would tell me who it was."

WHY DON'T KIDS TELL?

How is it possible that so many little boys have been molested without our knowledge?

Sara Johnson's seven-year-old son, Peter, had spent six months visiting a therapist who was preparing him to be a court witness to the molestation of other children after Lou Taylor, his Cub Scout leader, was found to be a child molester. After the discovery, Sara said, "I knew my son couldn't have been molested because, well, my children tell me everything, and then, well, Peter is a rough, tough little boy. He's the kind of boy who, the dirtier he gets, the happier he gets. If anyone approached him, he'd just say, 'Get your damn hands off me!'"

Sara's voice shakes as she recalls the night that Lou Taylor finally confessed, waived his right to a trial and was taken to jail. "I had put Peter to bed and I was standing at the kitchen sink washing the dishes when I heard Peter's little footsteps coming up behind me. Then I heard him say in his sweet little voice, 'Mommy, is it okay for me to tell you now what Mr. Taylor did to me?'"

There are several reasons why a little boy doesn't tell. First of all, the molester usually threatens him personally. Often the boy is protecting his parents, whom the molester also may have threatened to hurt.

Peter was told by Lou Taylor that if he reported the incidents, Taylor would call the police when his mother brought Peter to the next Cub Scout meeting and the police would put Peter in prison.

Michael Jones, the owner of Jake's day-care center, told Jake that he would kill Jake's mom if Jake said anything.

Jim Brown, Derek's youth minister, showed Derek and his brother the gun that he carried in his briefcase—and led the boys to believe he would use it.

These threats are effective with children because a child does not know exactly how the adult world works. Peter must have believed, for example, that the police really would put him in jail. The terrible part is that children tend to believe all adults—and because even a young child has already absorbed the message that it isn't nice to talk about sex, the child is unable to check out the validity of what the molester says.

IS YOUR SON AT RISK?

It is not only in their use of threats that child molesters are so successful. If a man—even a man in a respected position—molested a child quite suddenly, the child would be very

likely to tell his parents. Men who molest boys are so very successful, however, because they often spend months selecting and preparing their victims.

A man who once had been named teacher of the year told me, for example, of the system he had devised. He said, "I'd tell the class some secret and then I'd wait to see which boys told and which didn't. If a kid can't keep a secret, I don't go near him. Then, I'd see which kids would follow orders. If they were difficult to control, I'd stay away from them. So I am always looking for a kid who is well-behaved, who will do what I say and who can keep secrets."

Molesters also choose children who are particularly vulnerable and then try to gain their trust by giving them special favors. Derek's father was in the hospital having the second of two back operations when Jim Brown came to the boy's house and offered to take Derek camping. Jake's parents were divorcing when he started attending the day-care center at age three. Michael Jones gave Jake special presents and let him pass out snacks and feed the rabbit. Seeing these special favors, parents add their trust in the molester to the child's trust.

To make matters worse, most parents teach their children to obey adults unquestioningly, which also gives the child molester a decided advantage. One of Sara's worst memories is what she used to tell her son. "When I think of what I used to say every week when I dropped Peter off at his Cub Scout meeting... I'd say, 'Good-bye, Peter. Mamma loves you. You be sure and do whatever Mr. Taylor says.'"

Another reason that boys are victimized more often than girls may be that, even when they are very young, boys are taught to be tough and not tell anyone when they are hurt. Because they know that they are expected to handle tough situations without crying or acting like "a sissy," it is often, ironically, the toughest boys who keep the secret the longest. Parents also feel much less protective of their sons than of their daughters, and it is this pervasive lack of protective attitudes toward boys that allows child molesters so much access to them. A man who takes boys camping or has them over to his house is seen as a "good Joe." Any man who tried to do the same with little girls would immediately arouse our suspicion. But the difference between the legitimate "good Joe" and the child molester is that the molester devises reasons to spend special private time alone with a boy.

Parents need to be aware, then, that a boy may not tell them if he is being molested. There are, however, certain signs parents can watch for. Most likely they may notice a sudden decline in their son's schoolwork—either he can't concentrate or his grades fall. His eating habits may change. He may withdraw from his friends. He may suddenly begin having

(continued on page 138)

THE CHILD ABUSER

continued from page 100

nightmares. He may become fearful of men—not necessarily only the man who molested him, but many men. He may try to avoid going to school if the molester works there. Or he may attempt to avoid the molester by making up silly reasons why he doesn't want to go on outings with the man.

If parents suspect that their child has been molested, it's not enough simply to ask him if anyone has touched him inappropriately. Parents first need to assure the child that, no matter what anyone has told him, they love him and can protect him. If a child then reveals that he has been molested, parents must also be careful not to react in a way that will alarm him. Instead they should calmly assure him that what happened is not his fault and that they won't let it happen again.

Even after a boy reveals that he has been molested and is protected from his victimizer, he may continue to show the above-mentioned symptoms of distress. Madeleine points out, for example, that although both her son and daughter were molested, she feels her son has suffered the most. "I think that's because Jake was molested more often. My daughter, who was barely touched and was only three at the time, seems to have recovered. She is sociable and is a happy little girl going on with her life. But even after two years my son has not recovered.

"At first Jake withdrew. He didn't want to be around any of his friends. Even now he is very selective about who he plays with. And although he is very bright, his grades have fallen. He stays away from all men except his dad. And he has developed clinging behaviors. He is now ten years old, and he still doesn't want me out of his sight.

"He is also very afraid that someone will find out what happened to him. When it was time for him to tell his story to the caseworker, he curled up behind the pillows on my bed and screamed, 'No! No! This is bad! I don't want anyone to know! This is bad!'"

DON'T BLAME THE CHILD!

Unfortunately, the societal belief that little boys should be able to protect themselves from child molesters often prevails even after the boys identify themselves as victims. During legal questioning, Derek, for example, was asked by a lawyer, "Well, if you didn't like it, why did you let it go on for so long?" And when Peter's mother, Sara, asked a trusted member of her church why no one spoke to her anymore and why their minister refused to counsel her or say any prayers for her son, the man said, "Look, every man is approached by some homo. Peter should just have said No!"

But the adults who made these comments don't understand that a molester makes it

impossible for a boy to say no. Unfortunately, society tends to "blame the victim" in sex crimes when the victim is a child, just as they do when the victim is a woman.

The parents of these victimized children were totally surprised and deeply hurt when their neighbors and friends failed to offer them sympathy or support. When Sara Johnson pressed charges against Lou Taylor, the Cub Scout leader who molested her son, Peter, she was astonished that many of her neighbors wrote letters to the judge describing Taylor as a "wonderful man." Madeleine Smith was amazed at the way everyone treated her. "I taught Sunday School, and yet my neighbors acted as though I had the plague," she says. "I received absolutely no support from the people at our church either. Michael Jones, Jake's molester, was very well liked there. People didn't want to believe he had done such an awful thing.

"After Michael Jones' arrest, our minister immediately went to his house to comfort his wife," says Madeleine. "But the minister never came to our house or offered support to any of the ten families whose children were Jones' victims. Eight of those families eventually left the church."

Unfortunately, these stories are not unusual. When a molester is discovered, community members often fumble around, not knowing what to do, then come out strongly on the side of the child molester and against the victims and their families. Why?

When a respected member of a community is discovered to be a child molester, community members find it impossible to believe that such a person is living in their midst. People also tend to take the molester's side because his behavior around adults is so good. Then too, because the problem of child molestation is so terribly upsetting, adults have a powerful desire to deny that it exists. That way they won't have to worry about the safety of their own children.

It is for these reasons—an inability to cope with, and a wish to deny, the problem—that communities will often knowingly pass a child molester on to another town. After the youth minister was convicted, for example, the Kanes checked into his background and discovered that he had gotten into trouble for molesting children at his previous church, but had nevertheless been sent on to his present church with good references. Sheila Kane was outraged. "If he had been prosecuted then," she says, "my sons would never have had to go through this."

PROTECT YOUR CHILD

It is crucially important that parents do everything in their power to protect their children. Perhaps some of the new information

we have gathered about child molesters will help parents to do just that. Here are a few things that all of us can do:

1. Be aware that even tough little boys are in danger of being assaulted. Because child molesters victimize children through a combination of manipulation and threats, even the toughest little boys need protection.

2. Talk to a child in ways that counteract a molester's threats. It really isn't enough to ask a child if anyone has touched him. We must first assure him that, despite what he may have been told, if he does "tell on" the molester, no one will kill his parents, his parents will still love him, and his parents are fully able to protect him from the molester.

3. Watch for the typical operating procedures that a child molester is likely to follow:

- Molesters spend excessive amounts of time with children. They often arrange to take boys on trips without another adult. A man who wants to spend more time with your children than you do may be a molester.

- Molesters often seek out a position—as a camp counselor, Boy Scout leader, school physician, coach, teacher or youth minister—that will allow them to spend time alone with children. The major difference between a man who is a child molester and the majority of respectable men who hold these positions is that the child molester will manufacture excuses for spending inordinate amounts of time alone with children.

- Molesters will often abuse the privileges of their positions to engage children in inappropriate activities. If the mothers quoted in this article, for example, had asked their boys exactly what went on during outings with these men, they might have realized a lot sooner that these men were molesters. The youth minister took the boys skinny-dipping and back to his house for private bouts of nude wrestling. The Cub Scout leader would give the boys "physicals," paying particular attention to their genitals. While a child may not realize that his Scout leader is not the appropriate person to give him a physical, a parent certainly would.

- Molesters prey on children who are particularly vulnerable. A man who offers your child excessive favors at a time of family stress or financial crisis may be a molester.

4. Check the history and background of anyone who is going to be spending a lot of time with your children. Never assume that anyone is beyond suspicion by virtue of his respected position, strong religious beliefs, years in the community or kindness to children. Call previous employers and talk to people who worked with the man while he was working with children. Be alert to gaps in his resumé. Molesters often simply omit jobs in which they were found out or became the object of suspicion.

5. Warn children that child molesters exist. Many people believe that it is better not to talk to children about the dangers of molestation because talking to them about it will only make them fearful. It is true that warning children about danger

(continued)

THE CHILD ABUSER

continued from page 138

instills some fear in them. When we teach children to be careful while crossing the street, for example, we also alert them to the consequences of being hit by a car. But keeping silent about the dangers of child molestation protects the child molester, not the child.

6. Never blame the child. Studies reveal that in almost every incident of sexual assault, the victim—whether that victim is an adult woman, a little girl or a little boy—feels in some way responsible for his or her victimization. The child molester knows this and will use this knowledge against his young victims, reinforcing their fear that they are to blame by telling them things like, "Well, you did come to my room," or "You did get an erection." Children are never to blame for their abuse at the hands of adult men. They must be told that clearly and repeatedly.

7. Never blame the child's family. If a victim's family can convince others that the molester has committed a crime, the molester runs the risk of being exposed and possibly convicted and sent to jail. Molesters will, therefore, almost always try to evade detection by saying that there is something deeply wrong with the families who accuse them. And because the child molester typically does so many good deeds for so many people, and because we don't want to believe something so terrible about such a wonderful man, we may be inclined to believe him and to think badly of the family who accuses him. If a respectable figure in your community is accused of child molesting, think twice before speaking ill of, or behaving coldly toward, the family who is making the charges.

I believe that child molestation can be stopped. I know that we can drastically reduce the number of children who are molested. First we must recognize that child molestation is a public health problem—an estimated 20 percent of all children are molested. And, like any health problem, it cannot be eradicated by treating its victims after they become victims. We must stop the molester before he molests again.

Parents should know that a handful of states have allotted funds to develop and maintain treatment programs designed to help molesters stop molesting children. In addition, the Federal government has funded several research projects aimed at preventing child molestation. Parents of victims have also organized into support groups.

All of these efforts are steps in the right direction. No one person, program or organization can single-handedly eliminate this terrible problem. We must all work together to keep our children safe.

For additional help or information, call The National Child Abuse Hotline: 800-422-4453. This Hotline, sponsored by Childhelp USA, handles crisis calls, provides information and offers referrals to local agencies nationwide.

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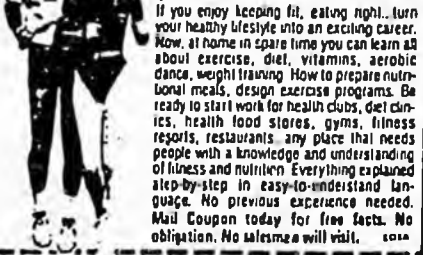
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EVALUATION and TREATMENT

CHARACTERISTICS OF ADULT SEXUAL OFFENDERS. Before any intervention in the behavior of sexual offenders can be undertaken, it is necessary to have an idea of who it is, at least in a general sense, we are dealing with. Vernon Quinsey has recently published a lengthy review of deviance-related literature and presents us with a broadly-based description of who and what sexual offenders are. The reader is referred to that work (In D. Weisstub (Ed.) (in press), *Law and Mental Health: International perspective*. Pergamon, New York.)

To summarize, Quinsey proposes that there are two primary factors in the genesis of a sexual aggressive. One, that there exists a continuum of relative sexual attraction or preference for the deviant focus and, two, that there are a variety of reasons why that focus is chosen. He describes these factors as additive.

Within the framework of these two factors he explores the individual qualities of known sexual offenders. While the paper is principally concerned with child molesters, because of the amount of behavioral crossover seen in this population, (Abel, G. Mittelman, M. Becker, J. Cunningham-Rathner, J. and Lucas, L. *The Characteristics of Men Who Molest Young Children*. World Congress of Behavior Therapy, 1983) I believe that inferences can be made for sex offenders in general. (I'm not sure that Dr. Quinsey would approve of this undocumented inference, but what we are interested in here are generalities upon which to structure an exploratory, evaluation protocol).

In terms of motivation, Quinsey presents a convincing picture of the offender as acting out his deviance as a result of an active, measurable sexual attraction. This attraction is experienced by the offender, prior to and during the behavior, as pleasurable and desirable. In addition, he reports that this attraction has frequently been first recognized by the offenders in their own childhoods (first overt act of sexual deviance at about age 16). As part of this attraction/preference, the offenders are prone to fantasize sexually about their deviant behavior. This, in effect, allows the offender to rehearse the behavior in imagination in the absence of a suitable target/victim.

Sexual offenders also act out their deviance at high rates. In the Able study cited above (1983) the average number of sexual assaults completed, by each offender against children, was 167. The average number of child victims was 76. Their behavior does not show the pattern of decline in frequency with age as found in property offenders. It appears that they do not outgrow their sexually exploitive preferences. Recidivism rates are high and increase in relation to the number of previous sex offenses and with attraction to male (non-incest) child victims.

Even though this population is known because of its deviation, the majority show no other psychopathology.

Their principal diagnoses are paraphilia (. . . an unusual act or fantasy is required or sexual arousal) and one of the forms of character disorder.

In terms of developmental histories, one finds a general high level of dysfunction in the offender's family of origin including physical, emotional and sexual abuse of themselves as well as other family members. The degree of family dysfunction increases as one moves from a community treatment population upward through incarcerated offender populations. One speculates that this is the result of a criminal justice selection process which places the more serious offenders in secure facilities and leaves the less serious in the community.

A preliminary study of sexual offenders in community treatment (Wolf, S. and Conte, J., 1984) found that they had been overtly (hands on) sexually abused as children in 27% of the cases observed. This compares to 53% noted by Quinsey for incarcerated offenders. Community-treated offenders, in that study, however, showed the same kinds of family of origin dysfunction that Quinsey reported in incarcerated offenders.

Their patterns of offending were also very similar. While the community-treated population showed fewer victims and more limited histories, they did show the same patterns of beginning overt sexually aggressive behavior in childhood and adolescence (approximately 75%). They show the same levels of premeditation and planning. The community-treated offenders who have molested male children also show the highest frequency of deviant behavior, number of victims and greatest tendency to reoffend.

Incest offenders, in both groups, show more limited deviant histories in general but more than has been believed. For example, Abel (1983) found that his sample of heterosexual-incest offenders had also molested female children outside their families 44% of the time. His sample showed crossover to a degree that indicates that it is risky to assume that the offender, at discovery, only acts out in the deviance for which he was caught.

In summary, sexual offenders are motivated to act out their deviance as a sexual preference. In simple terms, they like what they do. They are not in any large numbers psychotic or schizophrenic. Once their sexual preference is established they tend to continue to pursue it. They will most often, at the time of discovery, have more than one victim and probably more than one deviant sexual focus. In Incest cases, for example, they also molest children outside their homes almost half the time.

From clinical experience, offenders, when caught, will either deny the offense, minimize their responsibility (she made me do it . . . He liked it . . . They do it in Africa all the time . . .) or claim the cure (I've learned my lesson . . . found God . . . sobered up . . .). They also, all other things being equal, tend to return to deviance shortly after they feel safe from criminal justice sanctions. In their histories they will have quit many times, often after each

offense. They will lie extensively about their deviance and will be reluctant to reveal information beyond what is known about them already.

Clinical Note: Offenders, during evaluation, seem to reveal information about their deviance at a set rate. Re-

EVALUATING OFFENDERS. This article will deal with the evaluation of sexual offenders who are admitting to, at least, the behavior for which they have been referred. Evaluating denying offenders will be dealt with in a later issue of the SVQ. For further discussion of this topic see "Developing Your Theoretical Framework," Evaluating Sexual Offenders in Volume 1, Number 1 of the SVQ.

The specialized evaluation of the sexual offender forms the basis for planning a treatment response. It is "specialized" in that it addresses a specific problem and makes recommendations as to treatment and limitations to the freedom of the client. It is specialized in that its foundation is a specific body of data focused on the problem of sexual violence.

Since sexual offenders do not in any significant numbers self-refer for their problems, evaluation will most often occur after discovery and before sentencing. The offender will have been referred by someone in the criminal justice system and the evaluation may be used by the court in sentencing the offender.

Given the above, the client will be resistant to revealing much about himself. He will probably believe that he has cured himself of the referring problem and will "just want to forget about it." What information he will reveal will be distorted and minimized. As such, the client's self-report will be of limited direct use in defining the sexual problem. To compensate for this serious limitation, the specialized evaluation relies on information gathered from a variety of sources outside of the client.

The first step in the evaluation, after deciding to evaluate the offender, is the development of an information access system. Information needed for the evaluation comes from two sources: internal and external. Internal information is that which one derives from the offender directly. This includes self-report, personality assessment instruments, and psychophysiological assessments such as the penile plethysmograph and clinical polygraph. External information is that derived from contacts with discovery materials, witness and victim statements, victim evaluations, contacts with partners, family of origin, friends, pastors etc.

External data sources require signed releases of information from the offender. He must be fully informed as to the purpose of the releases, who will be contacted, what will be discussed and why it is necessary to the evaluation. In most cases this will include the client/offender's attorney. An attorney is used to operating within an adversarial system and will see the evaluator as either for or against his client. The evaluator must communicate that his agenda is to assess the nature of the client's problem, estimate his potential for further harm to others and recommend reasonable treatment alterna-

tion, he has a lot more that he will withhold.

NOTE: Citations and references are listed in the RESEARCH section under bibliography.

tives. Again, if the evaluator and the attorney representing the offender cannot come to agreement on the purpose and form of the evaluation, it would be advisable to not proceed further.

Internally derived information begins with the interview of the offender. One is looking to understand the life forces which created the potential, now realized, to make this individual into a sexual offender. One is looking for histories of interfamily abuse; sexual, physical and emotional which provides us with examples of values development in the family and the offender which supports sexually violent behavior.

Since the reality of the sexual deviance is not at question, the evaluation is intended to assess the risk for reoffense of this offender and his amenability for treatment. The more enmeshed in the offender's family background the deviance is (attitudes, values, family history) the more likely deviance will function as part of the offender's lifestyle. The more deviance is a part of the offender's lifestyle, the less likely the offender is willing to give the behavior up. All other factors considered, history of deviance, type of offending, and frequency, are probably the best predictor of treatment failure and reoffense.

One is also looking for the actual beginnings of sexual violence in the offender's life, its frequency over time, periods of no deviance, and periods of behavioral escalation. One is asking, what precipitated the suppression of behavior, what factor preceded or may have precipitated the return to deviance. This information details the offender's pattern of deviant behavior. The structure of this pattern forms the focus of treatment planning and functions as behavioral evidence of approaching reoffense. For example, an exhibitionist client has a history of withdrawing from friends and spouse, becoming argumentative and spending increasing amounts of time driving around alone prior to and during exposing. During treatment these behaviors reappear. It is probable that this client either is, or will be reoffending. These behavioral "warning signs" must be identified and noted in the evaluation's discussion of his deviant pattern.

The next step is to elicit from the offender his version of the presenting deviant behavior. Recognizing that he will give a minimized accounting of what happened, it is useful to hear him out. His report will expose the distortions in his thinking and the style and strength of his defenses. This step is useful in assessing the amenability or the vulnerability of the offender to treatment. The greater the client's distortions of what actually happened, the more a part of his value system the deviance is. The more a part of the offender's value system the deviance is, the less vulnerable he is to treatment messages that the behavior is hurtful to others. The more robust his distortions and defenses, the less amenable he is to treatment.

Personality assessment is the next step in the evaluation process. At the present time there are no dependable "test" profiles which identify sexual offenders 100% of the time. This is due in large measure to the offenders' consistent attempts to make themselves look good. They will attempt to "fake good" on the instruments rendering the results frequently invalid. When valid results are seen, the most frequent profile will express antisocial or asocial value systems, ruminativeness, impulsivity, and low empathy. The utility of personality assessment with this population may be that it measures their willingness to answer questions candidly. The danger of using them is that one finds very (behaviorally defined) dangerous offenders who represent normal looking personality profiles. As such, personality tests are of limited use and cannot be used, alone, to define the level of personality disorder present.

Psychophysiological assessment is the last source of internal data to be considered here. The two instruments most used are the penile plethysmograph and the polygraph. The plethysmograph is used to identify the range of sexual arousal which the offender experiences. (NOTE: an in-depth discussion of the plethysmograph is planned for the next issue of the SVQ.) This data should be used with the same attitude which one approaches personality testing. That is, endorsements of interest in, or attraction to, deviant themes must be accounted for. However, their absence from the test results does not mean that they don't exist, just that they were not measured.

External data collection is the next step in the evaluation. After the first meeting with the offender, the evaluator contacts the referring agency, the offender's attorney and any other individuals involved in the case. Discovery materials are collected and any previous reports are reviewed. The offender's version of the deviant behavior is compared and contrasted with other sources. Differences are explored to assess why they might exist. Are the differences the result of different perceptions, distorted thinking, or dishonesty on the part of the offender or others?

If one has the option, placing the offender in a sex offender treatment group is an excellent way to gather further data. This allows the offender to see others with problems similar to his dealing honestly with their deviance. One expects the amenable client to expand his self disclosure, his defenses to weaken and his distortions in perception of his deviance to change somewhat in the face of confrontations by the group members. If one does not observe these changes in the offender one can summarize that the likelihood of his profiting from treatment is minimal.

Even in cases where you cannot place the offender in group, it is important to see as much of the individual

as possible. The less time you can spend with the offender, the more external data you will need.

The final step in the evaluation is to make recommendations. What you recommend as your treatment plan, even if your recommendation is prison, depends on a number of factors. First, what motivates the client into treatment. Is he voluntary or court-ordered. Is he a present risk to the safety of the community. Can you, as a therapist, reasonably expect the offender to profit from treatment at your agency. (Be careful of your own sense of grandiosity. It is seductive to have referral sources think of you as the "Wizard." Your errors will be borne by the offender's next victim.)

The first consideration, the source of motivation, determines whether specialized treatment will take place. Offenders are unlikely to remain in a treatment setting which makes demands on him or expects that he will work directly on his deviance unless forced to. Without a clear mandate, from the court for example, the offender will find the least intrusive treatment he can. The least intrusive, of course, being no treatment at all.

The next consideration is dangerousness. The best predictor of future behavior is still past behavior. If the offender has a history of sexual abuse and exploitation extending back into his childhood, if his deviance has been constant or highly patterned, you can expect him to continue in that pattern. This means reoffense. Given what you know about the offender, and what you suspect, can external controls be structured around the offender to prevent reoffense opportunity? In that light, does the offender's family see him as a risk and can they be counted on to protect others from his abuse?

The final factor is the most difficult to assess. Is he internally motivated for treatment? Does his behavior cause him any real pain, guilt or embarrassment? If he experiences little guilt around his deviance, or doesn't think of it as wrong, he is not amenable to treatment in any setting. Your best efforts as a therapist will fail. Even if he is motivated to change out of his discomfort with his deviance, is he so out of control that he is probably reoffending as you read this? Sexual offenders can only be counted on to do what feels the best to them. If they really had any internal motivation to stop or discomfort with deviance, they would have sought treatment prior to being caught or stopped the behavior on their own.

These are the general components of evaluating sexual offenders. It is a different approach than most of mental health. It has most in common with evaluations of other criminal populations. It also shares the risks of that group in that when we, as evaluators and therapists, make errors in our assessment of risk, someone else pays the price for that mistake.

OCT 23 1985

Analysis of Sex Offender Data

The Department of Corrections, Division of Statewide Programs, has gathered data on sentenced sex offenders. The following represents the first analysis of this data. Data on newly sentenced sex offenders continues to be collected and further analyses will be completed in the future when time allows.

Of the approximately 450 sex offenders in the prison system on March 1, 1985, 354 were sentenced. All sentenced sex offenders were asked to complete a Sex Offender Treatment Application. If an offender refused to fill it out, the offender's probation officer was required to complete it using information contained in the offender's file. All data was verified by the probation officer. The applications were then checked by Central Office staff who highlighted omissions and possible inaccuracies and returned them to the probation officers for completion. When completed and returned to Central Office, the data was entered into the computer. A basic analysis of the data reveals the following composite picture of the "average" sex offender in Alaska:

He is a white male between 20 and 40 years old. He has a high school education and was employed at the time of the offense. He could be either single or married. He has lived in Alaska since childhood. He committed the offense alone, without a weapon. He committed the offense in Anchorage and was under the influence of alcohol at the time of the offense.

The victim was a female aged 16 or younger, who was a relative, friend or acquaintance of the offender. Of the victims who were related to the offenders, 62% were natural daughters or stepdaughters.

The data also reveals that a child under the age of ten is most likely to be molested by a relative. This continues to hold true for children in the ten to 16 year old age group. Once over 16, a person is most likely to be victimized by a friend or acquaintance.

Further analysis of the data shows that more sentenced sex offenders were convicted of first degree sexual assault than other sex offenses.

Most sex offender cases went to a jury trial as opposed to the offender pleading guilty or no contest.

Most sex offenders (55%) are not eligible for parole.

For First Degree Sexual Assault, the most frequent sentence was six to eight years of jail time to serve.

For Sexual Abuse of a Minor* the most frequent sentence was four years or less to serve.

*Sexual Abuse of a Minor in the 1980 Criminal Code was a Class C felony. It was changed on October 17, 1983 to Sexual Abuse of a Minor; First, Second, Third and Fourth degrees.

SEX OFFENDER REGISTRATION IN WASHINGTON STATE: COMPLIANCE, 1991

FINDINGS

- Three out of every four adult sex offenders required to register in Washington State had done so as of November 1991. Overall compliance was 76 percent, up 19 percent from the compliance rate measured one year earlier during the implementation phase of the law.¹ (See Figures 1 and 2.) *Total Adults=5143, Registered=3914*
- Overall compliance for juveniles as of November 1991 was 67 percent, down 3 percent from the compliance rate measured in March 1991. (See Figures 3 and 4.) *Total Juveniles=388, Registered=259*
- The sex offender registration law was changed in 1991, shortening the timelines for registration and requiring more sex offenders to register.

CHANGES IN THE LAW

More Offenders and Shorter Timelines

The Community Protection Act required that all convicted sex offenders (adults and juveniles) released from custody or on active supervision by the Departments of Corrections and Social and Health Services on or after February 28, 1990, register with the sheriff in their county of residence. The law was amended in 1991 to require registration of all sex offenders who were under the jurisdiction of the Indeterminate Sentencing Review Board on the date of the original law.

Previously, convicted sex offenders had 30 days to register following release, or sentencing if not confined. Amendments to the law in 1991 reduced this time to 24 hours for those released from confinement, and required immediate registration of those sentenced and not confined. Also, the number of days has been reduced from 45 to 30 for sex offenders moving or returning to Washington State. These changes went into effect on July 1, 1991.

¹ For background on the registration law, previous findings, and methodology, see "Adult Sex Offender Registration in Washington State: Initial Compliance, 1990," and "Juvenile Sex Offender Registration in Washington State: Implementation and Initial Compliance 1991" (Felver with Lieb). This paper uses the same methodology and sources of information as the two earlier studies. Contact the Institute for Public Policy for copies.